

TERMS OF REFERENCE

UNDP Civil Society Development Programme

CALL FOR PROPOSALS Improving the legal framework for civil society in Ukraine

Background

The Civil Society Development Programme (CSDP or Programme) aims at a strengthened civil society promoting democratic governance. This programme promotes an open and democratic society founded on the rule of law and based on human rights and governance transparency and accountability both nationally and regionally. The project ensures that civil society organizations (CSOs) can become stronger, diminish their dependency on the donor community, and enhance citizen participation in policy processes by developing the capacity of CSOs at the regional and local level to effectively address citizens' needs.

The Programme includes two main components: 1) the small grants scheme for CSOs in seven regions (oblasts) to support activities aimed at improving the rights and situation of vulnerable groups, and promoting transparency & accountability of regional and local governments; and 2) support to the development of a more favorable legal framework for the civil society in Ukraine in accordance with recommendations of the Council of Europe. The UNDP implements this Programme through competitively selected partners that carry out specific components of the CSDP.

The current legislation concerning civil society in Ukraine is considered by the leading civic activists and experts as outdated and limiting the right to freedom of association. The main legal act setting the framework for the civil society organizations in Ukraine - the current law of Ukraine "On Citizen Associations" (1992) has been described as contradicting to the European Convention on Human Rights by the decision of the European Court on Human Rights.

During the past two years the effort to improve the legal framework for the civil society in Ukraine has been lead mainly by the Civic Coalition for the new law "On Civic Organizations" (Civic Coalition). The Civic Coalition conducted a civic advocacy campaign in 2008 to promote the draft law of Ukraine "On Civic Organizations". It held a public discussion of the draft and worked with the Ministry of Justice and the Cabinet of Ministers of Ukraine (CMU) to prepare its submission to the Verkhovna Rada (parliament) of Ukraine (VRU). The CMU endorsed the draft and submitted it to the VRU where it was registered on November 14, 2008 under #3371. The VRU Committee on Legal Policy was responsible for reviewing the draft and preparing it for hearings at the plenary session.

In 2009 the Civic Coalition experts and activists continued efforts to promote the draft law "On Civic Organizations". During September 2009 – January 2010 the CSDP supported to the group of experts who provided consulting to the Civic Coalition and members of parliament, produced additional analysis and justification for the new draft, and conducted a media campaign to inform the CSO community on the issue.

Despite the efforts by the Civic Coalition, the VRU Committee on Legal Policy because of internal disagreements failed to hold a committee hearing on the draft law "On Civic Organizations" or bring it to VRU plenary meeting hearing. The change of government that followed Presidential election in January 2010 has ended the effort to promote the draft law #3371 because it had been sponsored by the previous cabinet. This means that a new draft law needs to be submitted to the VRU or other regulatory acts need to be adopted if the existing legal framework for civil society in Ukraine is to be modernized.

Therefore, there is a need for a coherent government policy concerning modernization of the legal framework for civil society in Ukraine. According to the leading civic activists and experts, the main issues that need to be addressed by such a policy include:

- simplification of CSO legalization (registration);
- the right of CSOs to protect not only the interests of their members but of other persons and social groups as well;
- the right of legal entities to become founders of CSOs;
- abolishing the territorial status of CSOs and allowing CSOs to operate throughout Ukraine regardless of their place of registration;
- the right of CSOs to directly generate income while retaining their not-for-profit status.

Recognizing the importance of a new law, the civil society expert community holds that substantial improvements in CSO registration (such as reduced registration time and minimization of refusal cases) can be achieved by adopting other regulatory acts, as well as by improving the practice of the current law application, which involves improved work of the public officials in the departments of justice at the regional and local levels, as well as better understanding and compliance with the current regulations by the CSOs.

Objectives

With this Call for Proposals the UNDP seeks to competitively select a qualified organization (Grantee) that will receive a grant from UNDP to organize, coordinate and carry out activities to achieve the following main objectives:

- more favorable legal framework for the civil society in Ukraine advocated; and
- practice of application of the current legislation and regulations concerning CSO legalization (registration) improved.

In order to reach the mentioned main objectives the Grantee shall achieve the following goals:

- priority legislation and regulations identified and agreed upon by the main civil society actors that needs to be developed and adopted in order to create a more favorable legal framework for the civil society in Ukraine;
- a policy document on CSOs' legal status, CSO legalization (registration) and CSO activities regulation in accordance with the European principles and approaches¹ drafted, publicly discussed and promoted;
- dialogue between the civil society, government and legislature strengthened concerning the reforms in the civil society legislation and CSO activities' regulation;
- Ukrainian CSO community better informed about legal requirements that need be complied with in order to facilitate CSO legalization;
- practices of public officials involved with CSO legalization improved.

Organizational arrangements

UNDP will form a Grant Selection/Steering Committee (GSSC) that will conduct grantee selection. The GSSC will select the Grantee based on the criteria of competency, experience and quality of the project proposal submitted in response to this Call for Proposal. The duration of the grant agreement between the UNDP and the Grantee will be 12 months.

UNDP grant may be used to cover the following expenses: expert fees, rent and catering for project events, communication and information services, printing, travel, supplies, and administrative costs.

Scope of work and expected output

The activities to be supported by the UNDP grant may include: consulting to the CSOs, government officials and members of parliament, research, analytical, policy paper drafting, training, information dissemination and publication activities aimed at achieving the above-mentioned objectives.

It is anticipated that the Grantee will work with the following stakeholders:

- the "Civic Coalition for the new law On Civic Organizations" (Civic Coalition) – a coalition of CSOs that promotes improvement of the legal framework for the civil society in Ukraine;
- other CSOs interested in promoting a favorable legal framework for civil society and improving current CSO registration and regulation practices;
- the Ministry of Justice of Ukraine, Secretariat of the Cabinet of Ministers of Ukraine, and other relevant government bodies;
- relevant committees of the Verkhovna Rada (parliament) of Ukraine;
- media.

UNDP expects the Grantee to be prepared to propose various scenarios for achieving project goals and objectives, according to the developments in the process of improvement of the legal framework for the civil society in Ukraine. For example, in the case of adoption and enactment of the new law "On Civic Organizations" the Grantee shall provide consulting to the Civic Coalition and relevant government stakeholders in order to facilitate implementation of this law through changes in relevant policies and procedures.

Grant applicants are invited to propose projects that will perform the following tasks:

1. Conduct research of the practices of the CSO legalization (registration) by the regional, district and city departments of justice in order to analyze the main obstacles faced by the CSOs during the legalization process and identify the principles and approaches, as well as legislative and regulatory changes that need to be introduced in order to alleviate these problems.

Output:

¹ According to the Council of Europe "Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe"

- Research conducted and an analytical report produced describing main obstacles in CSO legalization (registration) and including recommendations of legal and regulatory changes necessary for eliminating those obstacles.

2. Provide expert support to the Civic Coalition and other interested CSOs in defining the priority legislation and regulations that needs to be adopted and implemented in order to bring the civil society legal framework in Ukraine in compliance with the recommendations of the Council of Europe.

Outputs:

- At least three regional roundtable meetings held with participation of civic activists and civil society experts, priorities in the improvement of the civil society legal framework in Ukraine discussed, and relevant recommendations for the Civic Coalition developed;
- Main issues concerning the improvement of the civil society legal framework are defined by the Civic Coalition with expert support through a participatory process with input from the CSOs representing different areas of activity and various regions of Ukraine.

3. Develop a document including policy recommendations that addresses the issues defined by the Civic Coalition as priority in order to improve the legal framework for the civil society in Ukraine.

Output:

- A policy document drafted that includes policy recommendations proposed by the Civic Coalition and other civic actors, including but not limited to the following:
 - simplification of CSO legalization (registration);
 - the right of CSOs to protect not only the interests of their members but other persons as well;
 - the right of legal entities to become founders of CSOs;
 - elimination of the territorial status for the majority of CSOs;
 - the right of CSOs to conduct commercial activity while retaining the not-for-profit status.

4. Facilitate a wide discussion of the policy document by the Ukrainian civil society and incorporate relevant recommendations.

Outputs:

- The draft policy document discussed during the series of consultations and focus group meetings with civil society activists and experts;
- Relevant recommendations incorporated in the text of the draft policy document.

5. Provide consultations to the officials at the appropriate government bodies (such as the Ministry of Justice and the Secretariat of the Cabinet of Ministers of Ukraine), the members of the Verkhovna Rada of Ukraine (VRU deputies) and staff, on the relevance of the new policy document to the compliance of the Ukrainian civil society legal and regulatory framework with the recommendations of the Council of Europe.

Outputs:

- appropriate government bodies and VRU Committee(s) identified that may adopt the policy document;
- analytical paper and consultations provided to the government officials, VRU deputies and staff on the above-mentioned issues.

6. Organize regional seminars for representatives of the departments of justice and civic leaders to improve practices of public officials involved with CSO legalization (registration) and improve civic leaders' knowledge of legal requirements to be complied with in order to facilitate CSO registration;

Outputs:

- at least 3 regional seminars conducted, relevant hand-out materials developed and disseminated;
- relevant public officials and civic leaders better informed on ways to improve current practices in CSO legalization.

7. Facilitate national-level public discussion of the priorities for creating a favorable legal framework for civil society and improving the application of the current laws and regulations;

Outputs:

- a round table on the above-mention issues organized for CSO representatives and relevant government officials;
- round table recommendations summarized and publicized.

8. Ensure sufficient media coverage of the Civic Coalition's work concerning development of policy recommendations;

Outputs:

- At least 4 articles in printed and electronic media with updates on the Civic Coalition's activities aimed at promoting favorable legislation for the civil society;
- At least 2 press-conferences held covering the progress and results of the Civic Coalition's work on this issue;

In the case of adoption and enactment of the new law "On Civic Organizations":

9. Facilitate its implementation through developing recommendations for the Civic Coalition and relevant government bodies on amending acting policies and procedures, training public officials in implementing the new law, and preparing publications that explain its implementation;

Outputs:

- Recommendations developed concerning amendments to acting policies and procedures necessary for successful implementation of the law;
- Training materials and a publication produced, and at least two seminars organized for government officials and CSOs explaining new law implementation;

10. Monitor the new law implementation and analyze its impact, inform and consult citizens, CSOs and the general public on practical implications of the new law;

Output:

- Analytical report on the results of monitoring of the new law implementation produced and publicized;

Reports

The contractor will submit the following reports according to UNDP format:

- One-page narrative monthly progress reports, including updates on the activities carried out and results achieved;
- Quarterly progress and financial reports, including copies of all materials produced;
- Final report.

Qualifications and Experience

The Grantee shall have the following qualifications and experience:

- Thorough knowledge of the civil society sector in Ukraine, and of the European standards of legislation concerning non-governmental organizations;
- High level of general organizational capacity, including human resources, technical, administrative, and financial management aspects;
- Good understanding of the public policy and legislative processes in Ukraine;
- Proven expertise in policy paper drafting, legal analysis, legislation monitoring, and in conducting media and public awareness campaigns;
- Significant experience in monitoring and analysis of legislation concerning civil society and not-for-profit activity, according to the European standards, including legalization (registration), income generation, taxation, citizen participation in decision-making, and charitable activity;
- Demonstrated experience of cooperation with government agencies, including the Secretariat of the Cabinet of Ministers of Ukraine, the Ministry of Justice, and Verkhovna Rada of Ukraine concerning developing recommendations on new legislation, policies and procedures;
- Strong capacity to conduct monitoring and analysis of the implementation of enacted legislation, policies and procedures;
- Experience in conducting round table discussions, seminars, conferences, and in producing publications on civil society issues;
- Productive cooperation with CSO networks at the national and regional levels;
- Experience in successful implementation of international donor-funded technical assistance projects.

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